



SUSQUEHANNA RIVER BASIN COMMISSION

18 CFR Part 806

Review and Approval of Projects

AGENCY: Susquehanna River Basin Commission.

ACTION: Notice of proposed rulemaking and public hearing.

SUMMARY: This document contains proposed rules that would amend the regulations of the Susquehanna River Basin Commission (Commission) to clarify the water uses involved in hydrocarbon development that are subject to the consumptive use regulations, as implemented by the Approval By Rule program.

DATES: Comments on these proposed rules may be submitted to the Commission on or before November 17, 2014. The Commission has scheduled a public hearing on the proposed rulemaking, to be held November 6, 2014, in Harrisburg, Pennsylvania. The location of the public hearing is listed in the **ADDRESSES** section of this document.

ADDRESSES: Comments may be mailed to: Jason E. Oyler, Esq., Regulatory Counsel, Susquehanna River Basin Commission, 4423 N. Front Street, Harrisburg, PA 17110-1788, or by e-mail to regcomments@srbc.net.

The public hearing will be held on November 6, 2014, at 1:30 p.m., at the Pennsylvania State Capitol, Room 8E-B, East Wing, Commonwealth Avenue, Harrisburg, Pa. 17101. Those wishing to testify are asked to notify the Commission in advance, if possible, at the regular or electronic addresses given below.

FOR FURTHER INFORMATION CONTACT: Jason E. Oyler, Esq., Regulatory Counsel, telephone: 717-238-0423, ext. 1312; fax: 717-238-2436; e-mail:

joyler@srbc.net. Also, for further information on the proposed rulemaking, visit the Commission's web site at www.srbc.net.

SUPPLEMENTARY INFORMATION:

Background and Purpose of Amendments

The basic purpose of the regulatory amendments set forth in this proposed rulemaking is to clarify the water uses involved in hydrocarbon development that are subject to the consumptive use regulations, as implemented by the Approval By Rule (ABR) program.

Currently, certain hydrocarbon development projects and unconventional natural gas development projects are subject to the Commission's consumptive water use regulations. The Commission is proposing changes to the definitions in 18 CFR 806.3 to clarify the water uses subject to regulation along with corresponding changes to 18 CFR 806.22 pertaining to the ABR program. The Commission is also considering whether to increase the duration of approvals issued under the ABR program in 18 CFR 806.22(f)(10) and is seeking public comment regarding a longer term.

The Commission is proposing a number of changes to the definitions in 18 CFR 806.3. The Commission proposes to clarify and expand the definition of "hydrocarbon development" to "hydrocarbon development project." The new definition would retain the current language referring to "the drilling, casing, cementing, stimulation and completion" of oil and gas wells, and would add new language to cover all water-related activities and facilities on the drilling pad site as well as specific uses of water off the drilling pad site. On the drilling pad site, the definition would cover activities and facilities associated with the production, maintenance, operation, closure, plugging and

restoration of wells or drilling pad sites that would require consumptive water usage. The revised definition contains an illustrative, but not exhaustive, list of water uses on the drilling pad site. Off the drilling pad site, the regulated uses would be water used for hydro-seeding, dust suppression, and hydro-excavation of access roads and underground lines, as well as tank cleanings, related to a drilling pad site or centralized impoundments. The Commission's jurisdiction under § 806.22(f) would cease after all post-plugging restoration is completed according to applicable member jurisdiction regulations.

The Commission also proposes to add a new definition of "drilling pad site." This term is currently used in SRBC regulations, but is not defined. The Commission's intent with the proposed definition is to cover the physical four corners of the well site where drilling actually occurs or is intended to occur and not to activities and facilities off the pad site.

The Commission has also proposed corresponding changes to the definition of "project," "unconventional natural gas development," and "construction." The last sentence in the definition of "project" is deleted in this proposal, as it is not necessary with the changes proposed to "hydrocarbon development project." The definition of "unconventional natural gas development" is proposed to be amended to "unconventional natural gas development project" to match the "hydrocarbon development project" definition. As is currently the case, an "unconventional natural gas development project" remains a subset of the more broadly defined term "hydrocarbon development project."

The Commission also proposes changes to 18 CFR 806.22 – Standards for consumptive uses of water. The Commission proposes changes to clarify 18 CFR 806.22(f)(1) and (f)(4). The term "dust control" in 18 CFR 806.22(f)(4) has been

replaced with the broader term “other project related activity.” In addition, changes are proposed to 18 CFR 806.22(f)(11) and (f)(12) to reflect changes in the definitions as proposed. The Commission is proposing revisions to 18 CFR 806.22(f)(10) to note that the approvals under the ABR program shall be effective upon issuance by the Executive Director. In this subsection, the Commission is also considering whether to change the duration of approvals issued under the ABR program from 5 years to a longer term of up to 15 years and is specifically seeking public comment regarding such change. The Commission is also proposing changes to 18 CFR 806.22(e)(7) to mirror subsection (f)(10). Nothing in the proposed rulemaking changes the existing overall regulatory structure between hydrocarbon development projects generally versus unconventional natural gas projects specifically.

In addition, the Commission finds it necessary to revise the provisions of 18 CFR 806.15(e) to reflect proposed revisions in § 806.3.

List of Subjects in 18 CFR Part 806

Administrative practice and procedure, Water resources.

Accordingly, for the reasons set forth in the preamble, the Susquehanna River Basin Commission proposes to amend 18 CFR part 806 as follows:

PART 806—REVIEW AND APPROVAL OF PROJECTS

Subpart A – General Provisions

1. The authority citation for Part 806 continues to read as follows:

Authority: Secs. 3.4, 3.5(5), 3.8, 3.10 and 15.2, Pub. L. 91-575, 84 Stat. 1509 et seq.

2. In § 806.3:
 - a. Revise the definition for “Construction;”
 - b. Adding, in alphabetical order, a definition of “Drilling Pad Site;”
 - c. Removing the definition for “Hydrocarbon development” and adding in its place, in alphabetical order, the definition of “Hydrocarbon development project;”
 - d. Revising the definition of “Project;” and
 - e. Removing the definition for “Unconventional natural gas development” and adding in its place, in alphabetical order, the definition of “Unconventional natural gas development project.”

The revisions and additions read as follows:

§ 806.3 Definitions

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Construction. To physically initiate assemblage, installation, erection or fabrication of any facility, involving or intended for the withdrawal, conveyance, storage or consumptive use of the waters of the basin. For purposes of unconventional natural gas development projects subject to review and approval pursuant to § 806.4(a)(8) of this part, initiation of construction shall be deemed to commence upon the drilling (spudding) of a gas well, or the initiation of construction of any water impoundment or other water-related facility to serve the project, whichever comes first.

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Drilling Pad Site. The area occupied by the equipment or facilities necessary for or incidental to drilling, production or plugging of one or more hydrocarbon development wells and upon which such drilling has or is intended to occur.

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Hydrocarbon development project. A project undertaken for the purpose of extraction of liquid or gaseous hydrocarbons from geologic formations, including but not limited to the drilling, casing, cementing, stimulation and completion of unconventional natural gas development wells, and all other activities and facilities associated with the foregoing or with the production, maintenance, operation, closure, plugging and restoration of such wells or drilling pad sites that require water for purposes including but not limited to, re-stimulation and/or re-completion of wells, fresh water injection of production tubing, use of coiled tubing units, pumping, cement hydration, dust suppression, and hydro-seeding, until all post-plugging restoration is completed in accordance with all applicable member jurisdiction requirements. The project includes water used for hydro-seeding, dust suppression and hydro-excavation of access roads and underground lines, as well as cleaning of tanks, related to a drilling pad site and centralized impoundments.

* * * * *

Project. Any work, service, activity or facility undertaken, which is separately planned, financed or identified by the Commission, or any separate facility undertaken or to be undertaken by the Commission or otherwise within a specified area, for the conservation, utilization, control, development, or management of water resources, which can be established and utilized independently, or as an additional to an existing facility, and can be considered as a separate entity for purposes of evaluation.

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Unconventional natural gas development project. A hydrocarbon development project undertaken for the purpose of extraction of gaseous hydrocarbons from low permeability geologic formations utilizing enhanced drilling, stimulation or recovery techniques.

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3. In § 806.15, revise paragraph (e) to read as follows:

§ 806.15 Notice of application.

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(e) For applications submitted under § 806.22(f)(13) of this part for a wastewater discharge source, the newspaper notice requirement contained in paragraph (a) of this section shall be satisfied by publication in a newspaper of general circulation in each area within which the water obtained from such source will initially be used for hydrocarbon development.

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4. In § 806.22, revise paragraphs (e)(7), (f)(1), (f)(4), (f)(10), (f)(11) introductory text, and (f)(12) to read as follows:

§ 806.22 Standards for consumptive uses of water.

* * * * *

(e) *Approval by rule for consumptive uses.* (1) Except with respect to projects involving hydrocarbon development subject to the provisions of paragraph (f) of this section . . .

* * * * *

(7) Approval by rule shall be effective upon issuance by the Executive Director to the project sponsor, shall expire 15 years from the date of such issuance, and supersede any previous consumptive use approvals to the extent applicable to the project.

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(f) Approval by rule for consumptive use related to unconventional natural gas and other hydrocarbon development projects.

(1) Any unconventional natural gas development project subject to review and approval under § 806.4(a)(8) of this part, or any other hydrocarbon development project subject to review and approval under §§ 806.4, 806.5, or 806.6 of this part, shall be subject to review and approval by the Executive Director under this paragraph (f) regardless of the source or sources of water being used consumptively.

* * * * *

(4) The project sponsor shall comply with metering, daily use monitoring and quarterly reporting as specified in § 806.30 of this part, or as otherwise required by the approval by rule. Daily use monitoring shall include amounts delivered or withdrawn per source, per day, and amounts used per gas well or drilling pad site, per day, for well drilling, hydrofracture stimulation, hydrostatic testing, and other project-related activity. The foregoing shall apply to all water, including stimulation additives, flowback, drilling fluids, formation fluids and production fluids, utilized by the project. The project sponsor shall also submit a post-hydrofracture report in a form and manner as prescribed by the Commission.

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(10) Approval by rule shall be effective upon issuance by the Executive Director to the project sponsor, shall expire five years* from the date of such issuance, and supersede any previous consumptive use approvals to the extent applicable to the project.

(11) In addition to water sources approved for use by the project sponsor pursuant to § 806.4 or this section, a project sponsor issued an approval by rule pursuant to paragraph (f)(9) of this section may utilize any of the following water sources at the drilling pad site, subject to such monitoring and reporting requirements as the Commission may prescribe:

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(12) A project sponsor issued an approval by rule pursuant to paragraph (f)(9) of this section may utilize a source of water approved by the Commission pursuant to § 806.4(a) of this part, or by the Executive Director pursuant to paragraph (f)(14) of this section, and issued to persons other than the project sponsor, provided any such source is approved for use in hydrocarbon development, the project sponsor has an agreement for its use, and at least 10 days prior to use, the project sponsor registers such source with the Commission on a form and in the manner prescribed by the Commission.

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Dated: September 12, 2014.

Stephanie L. Richardson,
Secretary to the Commission.

* Per the preamble to this proposed rulemaking, the Commission is considering a change of the duration of approval in this subsection from 5 years to a longer term of up to 15 years and is seeking public comment regarding the proposed change.

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